



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

August 13, 1992
AO-92-24

Peter Mazareas
Deputy Treasurer
Treasury Department
One Ashburton Place
Boston, MA 02108

RE: Public Employee Leave of Absence

Dear Mr. Mazareas:

This letter is in response to your May 14, 1992, request for an advisory opinion regarding the effect of a leave of absence taken by a public employee.

You stated that you are employed as a Deputy Treasurer for the commonwealth. You are interested in working on a congressional campaign and plan to participate in the full range of campaign activities including fundraising. To do so you intend to take a leave of absence four months before the primary election. You ask whether such leave of absence enables you to engage in these activities without violating M.G.L. c.55, s.13.

As you may know, ordinarily a public employee is prohibited from political fundraising. Section 13 states, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purposes whatever. . . .

Since you are a person employed for compensation, you would be subject to the prohibition set forth in section 13.

However, this Office has advised on numerous occasions that public employees wishing to participate in campaign fundraising activities are exempt from the requirements of section 13 if they take an unpaid leave of absence of at least four months before a primary election or at least six months prior to a general election. See A0-92-07 and advisory opinions cited therein.

In addition, Section 15 of M.G.L. c.55 states:

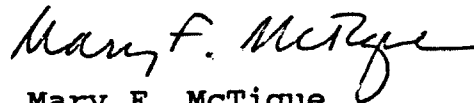
No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Similarly, if you take an unpaid leave of absence, this Office would not consider you to be a person in the service of the commonwealth for purposes of M.G.L. c.55, s.15. Thus, you would also not be subject to that section's prohibitions.

It is therefore the opinion of this Office that if you take an unpaid leave of absence, as described above, you may engage in political fundraising activities.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,



Mary F. McTigue
Director